

SUMMARY ANALYSIS OF AMENDED BILL

Franchise Tax Board

Author: Alpert Analyst: Kimberly Pantoja Bill Number: SB 44

Related Bills: See Prior Analysis Telephone: 845-4786 Amended Date: 03/28/01

Attorney: Patrick Kusiak Sponsor: _____

SUBJECT: Scholarshare Trust Refundable Credit/FTB Report To Legislature Annually Regarding Utilization of Credit

- ☒ DEPARTMENT AMENDMENTS ACCEPTED. Amendments reflect suggestions of previous analysis of bill as introduced December 7, 2000.
- ☐ AMENDMENTS IMPACT REVENUE. A new revenue estimate is provided.
- ☒ AMENDMENTS DID NOT RESOLVE THE DEPARTMENT'S CONCERNS stated in the previous analysis of bill as introduced December 7, 2000.
- ☒ FURTHER AMENDMENTS NECESSARY.
- ☐ DEPARTMENT POSITION CHANGED TO _____.
- ☒ REMAINDER OF PREVIOUS ANALYSIS OF BILL AS INTRODUCED December 7, 2000, STILL APPLIES.
- ☐ OTHER - See comments below.

SUMMARY

This bill would establish a refundable tax credit of up to \$500 for each beneficiary on whose behalf an individual makes a contribution to a Scholarshare trust.

SUMMARY OF AMENDMENT

The March 28, 2001, amendments added appropriation language to fund the department's costs for implementation and administration of the Scholarshare Trust Refundable Credit.

The amendments resolved the department's technical concerns by accepting the amendments suggested in the department's analysis of the bill as introduced. However, the amendments raise a new implementation consideration and a new technical concern. Except for the considerations resolved by these amendments, the remainder of the department's analysis of the bill as introduced still applies. The remaining considerations and the new concerns are included below.

The revenue estimate of the bill as introduced has not been impacted by these amendments.

POSITION

Pending.

Board Position:

<input type="checkbox"/> S	<input type="checkbox"/> NA	<input type="checkbox"/> NP
<input type="checkbox"/> SA	<input type="checkbox"/> O	<input type="checkbox"/> NAR
<input type="checkbox"/> N	<input type="checkbox"/> OUA	<input checked="" type="checkbox"/> PENDING

Legislative Director

Date

Brian Putler

04/10/01

IMPLEMENTATION CONCERNS

The amendments added language specifying the credit shall be an amount equal to 10% of contributions but not to exceed \$5,000 per taxable year. This language could be interpreted that either the credit cannot exceed \$5,000 or the contribution cannot exceed \$5,000. Clarification on this issue is needed.

If the intent is for the credit to be limited to 10% on contributions up to \$5,000 (or \$500) per year, then the bill does not need the provision specifying the credit shall not exceed \$500 per qualified beneficiary. These two limitations in the bill leave it unclear if the author intends the credit to be limited to \$500 per year or \$500 per beneficiary.

The bill specifies that the amount of the credit may not exceed \$500 per beneficiary. It is unclear if multiple taxpayers could claim the credit for the same beneficiary (e.g., parent and grandparent each claim a \$500 credit for the same beneficiary). Clarification on this issue is needed.

This bill would require regular appropriations by the Legislature to pay for the refundable portion of this credit. If sufficient funds were not appropriated to cover all of the refunds due, the department would suspend payment of the refunds until additional funds were appropriated. Interest would have to be paid to refund recipients for the period of time the refund was delayed. This delay would result in additional contacts to the department by refund recipients, which would likely increase departmental costs.

TECHNICAL CONSIDERATION

Amendment 1 has been provided to correct a typographical error.

ARGUMENTS/POLICY CONCERNS

Historically, refundable credits, such as the former state renter's credit and the federal Earned Income Credit, have had significant problems with invalid and fraudulent returns. These problems are aggravated if a refund is made that is later determined to be fraudulent. In such cases the refund commonly cannot be recovered. However, fraud concerns are reduced with this credit due to the narrow criteria for claiming the credit.

This bill does not specify a repeal date. Credits typically are enacted with a repeal date to allow the Legislature to review their effectiveness.

LEGISLATIVE STAFF CONTACT

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FRANCHISE TAX BOARD'S
PROPOSED AMENDMENTS TO SB 44
As Amended March 28, 2001

AMENDMENT 1

On page 2, line 11, before "contributions" strike "an"